

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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06-18-07
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Order Instituting Rulemaking to Promote Policy and
Program Coordination and Integration in Electric Utility
Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)
(QF Issues)

Order Instituting Rulemaking to Promote Consistency in
Methodology and Input Assumptions in Commission
Applications of Short-Run And Long-Run Avoided Costs,
Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025
(Filed April 22, 2004)
(QF Issues)

**INDEPENDENT ENERGY PRODUCERS ASSOCIATION
NOTICE OF EX PARTE COMMUNICATION**

June 18, 2007

Douglas K. Kerner
Ellison, Schneider & Harris L.L.P.
2015 H Street
Sacramento, CA 95814
Tel: 916.447.2166
Fax: 916.447.3512
Email: dkk@eslawfirm.com

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**INDEPENDENT ENERGY PRODUCERS ASSOCIATION
NOTICE OF EX PARTE COMMUNICATION**

Pursuant to Rule 8.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Independent Energy Producers Association (IEP) hereby gives notice of the following *ex parte* communication. The communication occurred on June 15, 2007 at approximately 11:00 a.m. at the offices of the Commission in San Francisco and lasted for approximately 30 minutes. The communication was oral and no written material was provided.

Douglas Kerner, attorney for IEP initiated the meeting with Andrew Schwartz, Energy Advisor to Commissioner Peevey. Also attending was Steven K. Kelly, Policy Director for IEP

Messrs. Kelly and Kerner expressed concern over the many flaws in the Proposed Decision (PD) ranging from legal, technical and implementation problems as described in IEP’s prior Comments and Reply Comments on the PD.

The PD is legally flawed for, among other reasons, its inadequate explanation of key issues necessary to support its findings and conclusions, all described in IEP's testimony, briefs and comments in the proceedings below, including that the selected market referent does not include many utility power costs and is subject to manipulation by them. The CAISO's MRTU process is underway in recognition of market deficiencies and should be completed shortly. The PD is technically flawed in a number of areas for failing to adequately and precisely explain how key price factors will be determined, also as discussed in IEP's prior comments, from the MIF itself to the development of burner tip gas prices, to name two. The PD has numerous gaps or is silent on the implementation of its proposal, including such issues as development, timing of updates and potential for protest and review of mechanisms that will need to be in place before any such new methodology could be employed, also as explained in IEP's prior comments. Messrs. Kelly and Kerner cautioned that of the myriad of issues that remain unresolved or imprecisely described it would not be appropriate to carve out a few, as others have proposed after the hearing, since the program is integrated and must be dealt with and resolved for all areas of concern: legal, technical and implementational. Also expressed was the concern that failure to address all of these issues prior to adoption of a final decision will doom all the parties to future dispute and contest given the almost certain chance that inconsistencies and interpretation will manifest themselves in pricing – and therefore will necessarily be protested and require review. Mr. Kelly suggested, in view of large number of issues that must be resolved or more precisely defined in a holistic collaborative of some kind, and the imminence of MRTU, recognized in the PD as an event that will require a revisit of the methodology, that practical time and resource considerations counsel in favor of awaiting that.

Finally, Messrs Kelly and Kerner recommended, however, that in a ruling separate from the proceedings leading to the PD the Commission enunciate finally that its update of SRAC does not involve a determination other than that previous determinations were correct and therefore that the question of retroactive applicability is resolved against that possibility.

Copies of this notice may be obtained from Eric Janssen at (916) 447-2166 or ericj@eslawfirm.com.

Dated: June 18, 2007

Respectfully submitted,



Douglas K. Kerner
Ellison, Schneider & Harris L.L.P.
2015 H Street
Sacramento, CA 95814

Attorneys for Independent Energy Producers
Association

Certificate of Service

I hereby certify that I have this day served a copy of “Independent Energy Producers Association Notice of Ex Parte Communication” on all known parties to R.04-04-025/R.04-04-003 (QF List) by transmitting an e-mail message with the document attached to each party named in the official service list. Parties without e-mail addresses were mailed a properly addressed copy by first-class mail with postage prepaid.

Executed on June 18, 2007 at Sacramento, California

_____/s/____

Eric Janssen

R.04-04-025

R.04-04-003

Service List

June 18, 2007

anogee@ucsusa.org
roger@berlinerlawpllc.com
lisa.decker@constellation.com
jimross@r-c-s-inc.com
toms@i-cpg.com
pseby@mckennalong.com
todil@mckennalong.com
maureen@lennonassociates.com
douglass@energyattorney.com
berj.parseghian@sce.com
woodruijb@sce.com
janet.combs@sce.com
michael.backstrom@sce.com
daking@sempra.com
gbaker@sempra.com
cneedham@edisonmission.com
phil@reesechambers.com
mflorio@turn.org
kpp@cpuc.ca.gov
map@cpuc.ca.gov
dwang@nrdc.org
ek@a-klaw.com
evk1@pge.com
saw0@pge.com
agrimaldi@mckennalong.com
kbowen@winston.com
jkarp@winston.com
jeffgray@dwt.com
alhj@pge.com
magq@pge.com
ssmyers@att.net
purves@grsllc.net
rick_noger@praxair.com
wbooth@booth-law.com
hoerner@redefiningprogress.org
elarsen@rcmdigesters.com
gmorris@emf.net
jgalloway@ucsusa.org
nrader@igc.org
tomb@crossborderenergy.com
pcmcdonnell@earthlink.net
wem@igc.org
michaelboyd@sbcglobal.net
joyw@mid.org
brbarkovich@earthlink.net

bill@jbsenergy.com.
hydro@davis.com
grosenblum@caiso.com
sford@caiso.com
abb@eslawfirm.com
dkk@eslawfirm.com
atrowbridge@daycartermurphy.com
mpa@a-klaw.com
carlo.zorzoli@enel.it
dgulino@ridgewoodpower.com
bshort@ridgewoodpower.com
sesco@optonline.net
csmoots@perkinscoie.com
jbwilliams@mwe.com
myuffee@mwe.com
rshapiro@chadbourn.com
ralph.dennis@constellation.com
dmcfarlan@mwgen.com
brianhaney@useconsulting.com
david.saul@solel.com
chilen@sppc.com
rprince@semprautilities.com
hchoy@isd.co.la.ca.us
dhuard@manatt.com
pucservice@manatt.com
curtis.kebler@gs.com
sam@climateregistry.org
mgibbs@icfconsulting.com
case.admin@sce.com
j.eric.isken@sce.com
gary.allen@sce.com
laura.genao@sce.com
lizbeth.mcdannel@sce.com
tory.weber@sce.com
jyamagata@semprautilities.com
dwood8@cox.net
tim.hemig@nrgenergy.com
kmelville@sempra.com
gbass@semprasolutions.com
liddell@energyattorney.com
scottanders@sandiego.edu
bpowers@powersengineering.com
centralfiles@semprautilities.com
cmanzuk@semprautilities.com
irene.stillings@energycenter.org
jkloberdanz@semprautilities.com
dpapapostolou@semprautilities.com
jleslie@luce.com
lkostrzewa@edisonmission.com
pherrington@edisonmission.com

jmcarthur@elkhills.com
bjl@bry.com
pepper@cleanpowermarkets.com
chris@emeter.com
mdjoseph@adamsbroadwell.com
slefton@aptecheng.com
diane_fellman@fpl.com
freedman@turn.org
nao@cpuc.ca.gov
filings@a-klaw.com
nes@a-klaw.com
rsa@a-klaw.com
dickerson06@fscgroup.com
ell5@pge.com
mekd@pge.com
mrh2@pge.com
taj8@pge.com
cem@newsdata.com
bcragg@goodinmacbride.com
jscancarelli@flk.com
koconnor@winston.com
lcottle@winston.com
ren@ethree.com
bobgex@dwt.com
stevegreenwald@dwt.com
ermd@pge.com
cpuccases@pge.com
mdbk@pge.com
ecrem@ix.netcom.com
l_brown369@yahoo.com
mecsoft@pacbell.net
gxl2@pge.com
karp@pge.com
nbb2@pge.com
vjw3@pge.com
k.abreu@sbcglobal.net
mark_j_smith@fpl.com
mhharrer@sbcglobal.net
andy.vanhorn@vhcenergy.com
alexm@calpine.com
kowalewskia@calpine.com
phanschen@mofo.com
editorial@californiaenergycircuit.net
mrw@mrwassoc.com
mrw@mrwassoc.com
mrw@mrwassoc.com
rschmidt@bartlells.com
janice@strategenconsulting.com
chrism@mid.org
sarveybob@aol.com

gabriellilaw@sbcglobal.net
rmccann@umich.edu
puma@davis.com
demorse@omsoft.com
brian.theaker@williams.com
steveng@destrategies.com
dougdpucmail@yahoo.com
dreynolds@aspensys.com
dcarroll@downeybrand.com
etiedemann@kmtg.com
kdw@woodruff-expert-services.com
www@eslawfirm.com
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rlauckhart@henwoodenergy.com
jesus.arredondo@nrgenergy.com
karen@klindh.com
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dws@r-c-s-inc.com
ppl@cpuc.ca.gov
ayk@cpuc.ca.gov
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chh@cpuc.ca.gov
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jmh@cpuc.ca.gov
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sc1@cpuc.ca.gov
tdp@cpuc.ca.gov
tcx@cpuc.ca.gov
tcr@cpuc.ca.gov
tbo@cpuc.ca.gov
snuller@ethree.com
aulmer@water.ca.gov
bmeister@energy.state.ca.us
dks@cpuc.ca.gov
kris.chisholm@eob.ca.gov
mjaske@energy.state.ca.us
wsm@cpuc.ca.gov
mmiller@energy.state.ca.us
rwethera@energy.state.ca.us